UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
312 North Spring Street, Room G-8
Los Angeles, CA 90012
Tel: (213) 894-3535

SOUTHERN DIVISION
411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION
3470 Twelfth Street, Room 134
Riverside, CA 92501
(909) 328-4450

SHERRI R. CARTER
District Court Executive and
Clerk of Court

FILED 08 JAN 14 AM 9:05 CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY: DEPUTY

January 10, 2008

Clerk, US District Court, Southern District of California
Mr. Sam Hamrick, Clerk
Edward J. Schwartz United States Courthouse, Ste 4290
940 Front Street
San Diego, CA 92101

'08 CV 0073 L CAB

Re: Transfer of our Civil Case No. CV 07-07467 FMC(JTLx)

Case Title: EDGAR AQUINO v. TARGET CORPORATION

Dear Sir/Madam:

An order having been made transferring the above-numbered case to your district, we are transmitting herewith our entire original file in the action, together with certified copies of the order and the docket. Please acknowledge receipt of same and indicate below the case number you have assigned to this matter on the enclosed copy of this letter and return it to our office. Thank you for your cooperation.

Very truly yours,

Clerk, U.S. District Court

MADELINA GUERRERO

By ______________________
Deputy Clerk

cc: All counsel of record

TO BE COMPLETED BY RECEIVING DISTRICT

Receipt is acknowledged of the documents described herein and we have assigned this matter case number CV: ______________________.

Clerk, U.S. District Court

By ______________________
Deputy Clerk

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED 08 JAN 14 AM 9:05 CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY: DEPUTY

I (a) PLAINTIFFS

Edgar Aquino

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Orange County
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Target Corporation, et al.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Rance D. Welch, Esq.
175 South C St., 2nd Floor
Tustin, CA 92780
714-665-0799

ATTORNEYS (IF KNOWN) '08 CV 0073 L CAB

R. Derek Classen
310 Golden Shore, 4th Floor
Long Beach, CA 90801
562-436-3946

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

	PT	DEF		PT	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 USC 1441 (b) Diversity of Citizenship

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment &Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153Recovery of Overpayment of Veterans Benefits
☐ 160 Stockholders Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectmant
☐ 240 Tort to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury

PERSONAL INJURY
☐ 362 Personal Injury- Medical Malpractice
☐ 365 Personal Injury - Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/Accommodations
☐ 444 Welfare
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence Habeas Corpus
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prisoner Conditions

FORFEITURE/PENALTY
☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC881
☐ 630 Liquor Laws
☐ 640 RR & Truck
☐ 650 Airline Regs
☐ 660 Occupational Safety/Health
☐ 690 Other

LABOR
☐ 710Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (13958)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
☐ 400 State Reappointment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce/ICC Rates/etc.
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 810 Selective Service
☐ 850 Securities/Commodities Exchange
☐ 875 Customer Challenge 12 USC
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State
☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

/ Original Proceeding
☐ 2 Removal from State Court
☐ 3 Remanded from Appelate Court
☐ 4 Reinstated or Reopened
☒ 5 Transferred from another district (specify) Central California
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: **JURY DEMAND:** ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should completed the form as follows:

I.(a) Plaintiffs - Defendants. Enter names (last, first, middle intitial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giveing both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place the "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, it officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action , in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.
(rev. 07/89)

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐) EDGAR AQUINO	**DEFENDANTS** TARGET CORPORATION, and DOES 1 to 20, Inclusive
(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases):	County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):
(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Rance D. Welch, Esq. PRUSSAK, WELCH & AVILA 175 South C Street, 2nd Floor Tustin, California 92780 (714) 665-0799	Attorneys (If Known) R. Derek Classen, Esq. PRINDLE, DECKER & AMARO 310 Golden Shore, 4th Floor Long Beach, California 90801 (562) 436-3946

II. BASIS OF JURISDICTION (Place an X in one box only.)

☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
[X] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	[X] 1	☐ 1	Incorporated or Principal Place of Business in this State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	[X] 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. ORIGIN (Place an X in one box only.)

☐ 1 Original Proceeding [X] 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: [X] Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes [X] No ☐ **MONEY DEMANDED IN COMPLAINT: $** ____________

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. Section 1441(b) Diversity of Citizenship.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES
☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce/ICC Rates/etc.
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 480 Consumer Credit
☐ 490 Cable/Sat TV
☐ 810 Selective Service
☐ 850 Securities/Commodities/ Exchange
☐ 875 Customer Challenge 12 USC 3410
☐ 890 Other Statutory Actions
☐ 891 Agricultural Act
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Info. Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State Statutes

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loan (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability
☐ 196 Franchise

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Fed. Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
[X] 360 Other Personal Injury
☐ 362 Personal Injury-Med Malpractice
☐ 365 Personal Injury-Product Liability
☐ 368 Asbestos Personal Injury Product Liability

TORTS PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/Accommodations
☐ 444 Welfare
☐ 445 American with Disabilities - Employment
☐ 446 American with Disabilities - Other
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence Habeas Corpus
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus/ Other
☐ 550 Civil Rights
☐ 555 Prison Condition

FORFEITURE/PENALTY
☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC 881
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs
☐ 660 Occupational Safety/Health
☐ 690 Other

LABOR
☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litig.
☐ 791 Empl. Ret. Inc. Security Act

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS - Third Party 26 USC 7609

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? [X] No ☐ Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number: ____________

CV07-07467

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? [X] No [ ] Yes

If yes, list case number(s): ____________________

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)
- [ ] A. Arise from the same or closely related transactions, happenings, or events; or
- [ ] B. Call for determination of the same or substantially related or similar questions of law and fact; or
- [ ] C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- [ ] D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

[ ] Check here if the U.S. government, its agencies or employees is a named plaintiff.

Los Angeles

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

[ ] Check here if the U.S. government, its agencies or employees is a named defendant.

Minnesota

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

Note: In land condemnation cases, use the location of the tract of land involved.

Los Angeles

X. SIGNATURE OF ATTORNEY (OR PRO PER): [signature] **Date** Nov. 14, 2007

R. Derek Classen

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM
Authority for Civil Cover Sheet

The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) PLAINTIFFS - DEFENDANTS. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a Government Agency use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: in land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section ("see attachment"). Refer to Local Rules 83-2.7 and 41-6 for further information regarding change of attorney name, address, firm association, phone number, fax number or e-mail address, and dismissal of action for failure of pro se plaintiff to keep Court apprised of current address.

II. JURISDICTION. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdiction be shown in pleadings. Place an **"X"** in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States Plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States Defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an **"X"** in this box.

Federal Question. (3) This refers to suits under 28 U.S.C. 1331 where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, and act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code take precedence and box 1 or 2 should be marked.

Diversity of Citizenship. (4) This refers to suits under 28 U.S.C. 1332 where parties are citizens of different states. When box 4 is checked, the citizenship of the different parties must be checked. (See Section III below) (Federal question actions take precedence over diversity cases.)

III. RESIDENCE (CITIZENSHIP) OF PRINCIPAL PARTIES. This section of the CV-71 (JS-44) is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. ORIGIN. Place an **"X"** in one of the seven boxes:

(1) Original Proceedings. Cases which originate in the United States District Courts.
(2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C. Section 1441. When the petition for removal is granted, check this box.
(3) Remanded from Appellate court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
(4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
(5) Transferred from Another District. For cases transferred under Title 28 U.S.C. Section 1404(a). DO NOT use this for within-district transfers or multidistrict litigation transfers. When this box is checked, DO NOT check (6) below.
(6) Multidistrict Litigation. Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, DO NOT check (5) above.
(7) Appeal to District Judge from Magistrate Judge Judgment. Check this box for an appeal from a magistrate judge's decision.

V. REQUESTED IN COMPLAINT.
Class Action. Place an **"X"** in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VI. CAUSE OF ACTION. Report the civil statute directly related to the cause of action and give a brief description of the cause of action. Do not cite jurisdictional statues unless diversity. Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. NATURE OF SUIT. Place an **"X"** in the appropriate box. MARK ONE BOX ONLY. If the cause of action fits more than one nature of suit, select the one that best describes your cause of action.

VIII(a) IDENTICAL CASES. Indicate if an identical action has previously been filed and dismissed, remanded or closed. Insert the docket number and judge's name, if applicable.

VIII(b) RELATED CASES. This section of the CV-71 (JS-44) is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge's name for each case. Check all boxes that apply.

IX. VENUE. This section of the CV-71 (JS-44) is used to identify the correct division in which the case will be filed. Please remember to indicate the residence of EACH plaintiff and defendant and the county or state in which each claim arose.

If the United States government or an agency thereof is a plaintiff or defendant, place an **"X"** in the appropriate box. Indicate the residence of other parties, if any.

In each category: for each party and claim, indicate the county, if in California. If other than California, you need only to list the state or country.

X. Attorney or party appearing pro per must sign and date this form.

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No.

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On November 14, 2007, I served the following document(s) described as **CIVIL COVER SHEET** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered to ______________________ for delivery to the above address(es).

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☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).

☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 14, 2007, at Long Beach, California.

Leti Gutierrez

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

Edgar Aquino vs. Target Stores
Case No.

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Florence-Marie Cooper and the assigned discovery Magistrate Judge is Jennifer T. Lum.

The case number on all documents filed with the Court should read as follows:

CV07- 7467 FMC (JTLx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

[X] Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

[ ] Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

[ ] Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

PRINDLE, DECKER & AMARO LLP
R. Derek Classen, Esq. (Bar No. 162805)
310 Golden Shore, Fourth Floor
P.O. Box 22711
Long Beach, CA 90801-5511
Tel. No.: (562) 436-3946
Fax No.: (562) 495-0564
TARG-0248
rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

FILED
CLERK US DISTRICT COURT
JAN - 7 2008
CENTRAL DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

2007 DEC 19 PM 2:45
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

LODGED

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467 FMC (JTLx) ~~[PROPOSED]~~ **ORDER TRANSFERRING VENUE** DATE: January 14, 2008 TIME: 10:00 a.m. DEPT.: 750 – Roybal Bldg.

GOOD CAUSE APPEARING, that the motion of Defendant Target Stores to transfer venue of the above-entitled matter from this Court to the United States District Court for the Southern District of California, having been filed and duly considered, said motion IS HEREBY GRANTED.

ACCORDINGLY, IT IS HEREBY ORDERED that this matter is transferred forthwith to the Southern District of California. The Clerk of the Court is ordered to take the necessary steps to ensure that the entire court file is transferred to the Clerk of the Southern District.

Jan. 7, 2008
DATE

[signature]
JUDGE OF THE DISTRICT COURT

I hereby attest and certify on 1-10-08 that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
M Guerrero
DEPUTY CLERK

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On December 19, 2007, I served the following document(s) described as **[PROPOSED] ORDER TRANSFERRING VENUE** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).

☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on December 19, 2007, at Long Beach, California.

Leti Gutierrez

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

(JTLx), CLOSED, DISCOVERY, MANADR

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
(Western Division - Los Angeles)
CIVIL DOCKET FOR CASE #: 2:07-cv-07467-FMC-JTL

Edgar Aquino v. Target Corporation et al
Assigned to: Judge Florence-Marie Cooper
Referred to: Magistrate Judge Jennifer T. Lum
Case in other court: Norwalk Superior Court, VC049586
Cause: 28:1441 Notice of Removal - Personal Injury

Date Filed: 11/14/2007
Date Terminated: 01/10/2008
Jury Demand: Defendant
Nature of Suit: 360 P.I.: Other
Jurisdiction: Diversity

Plaintiff

Edgar Aquino

represented by **Donald Rance Welch**
Welch & Welch
175 South C St 2nd Fl
Tustin, CA 92780
714-665-0799
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Target Corporation

represented by **R Derek Classen**
Prindle Decker and Amaro
310 Golden Shore 4th Floor
P O Box 22711
Long Beach, CA 90801-5511
562-436-3946
Email: rclassen@pdalaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

I hereby attest and certify on 1-10-08 that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
M. Guerrero
DEPUTY CLERK

SEAL OF THE U.S. DISTRICT COURT CENTRAL DIST. OF CALIFORNIA
1095

Defendant

DOE DEFENDANT

Defendant

DOES
1 to 20, Inclusive

Date Filed	#	Docket Text
11/14/2007	1	NOTICE OF REMOVAL from Norwalk Superior Court, case number VC049586 with Conformed copy of summons and complaint. Case assigned to Judge Florence-Marie Cooper, Discovery to Magistrate Judge

		Jennifer T Lum. (Filing fee $ 350 PAID), filed by Defendant Target Corporation.(car) (Entered: 11/19/2007)
11/14/2007	2	Certificate of Interested Parties filed by Defendant Target Corporation. (car) (Entered: 11/19/2007)
11/14/2007	3	DISCLOSURE STATEMENT re Notice of Removal, [1] filed by Defendant Target Corporation (car) (Entered: 11/19/2007)
11/14/2007	4	NOTICE TO PARTIES OF ADR PILOT PROGRAM filed.(car) (Entered: 11/19/2007)
11/14/2007		FAX number for Attorney R Derek Classen is (562) 495-0564. (car) (Entered: 11/19/2007)
11/14/2007		FAX number for Attorney Donald Rance Welch is (714) 665-0797. (car) (Entered: 11/19/2007)
11/20/2007	5	ANSWER to Notice of Removal, [1] filed by defendant Target Corporation.(se) (Entered: 11/27/2007)
11/20/2007	6	DEMAND for Jury Trial filed by defendant Target Corporation.. (se) (Entered: 11/27/2007)
11/21/2007	7	MINUTES OF IN CHAMBERS ORDER held before Judge Florence-Marie Cooper : Scheduling Conference set for 1/28/2008 09:00 AM before Judge Florence-Marie Cooper. (dam) (Entered: 11/27/2007)
12/19/2007	8	NOTICE OF MOTION AND MOTION to Transfer Case to Southern District of California filed by Defendant Target Corporation.Motion set for hearing on 1/14/2008 at 10:00 AM before Judge Florence-Marie Cooper. (pp) (Entered: 12/20/2007)
12/19/2007	9	DECLARATION of R. Derek Classen In support of MOTION to Transfer Case to Southern District of California[8] filed by Defendant Target Corporation. (pp) (Entered: 12/20/2007)
12/19/2007	10	DECLARATION of Cindy Fletcher In Support of MOTION to Transfer Case to Southern District of California[8] filed by Defendant Target Corporation. (pp) (Entered: 12/20/2007)
12/19/2007	11	DECLARATION of Cindy Fletcher in support of MOTION to Transfer Case to Southern District of California[8] filed by Defendant Target Corporation. (mg) (Entered: 12/21/2007)
01/10/2008	12	ORDER by Judge Florence-Marie Cooper Transferring Venue. The Motion of Defendant Target Stores to transfer venue of the above-entitled matter is hereby GRANTED. It Is Hereby ordered that this matter is transferred forthwith to the Southern District of CA. (Made JS-6. Case Terminated.) (mg) (Entered: 01/10/2008)
01/10/2008	13	TRANSMITTAL of documents. Entire original case file, Certified copy of Transfer Order, of Docket Sheet and form CV 22 sent to USDC Southern District of CA. (mg) (Entered: 01/10/2008)

PACER Service Center			
Transaction Receipt			
01/10/2008 09:06:18			
PACER Login:	us3877	**Client Code:**	
Description:	Docket Report	**Search Criteria:**	2:07-cv-07467-FMC-JTL
Billable Pages:	2	**Cost:**	0.16

PRINDLE, DECKER & AMARO LLP
R. Derek Classen, Esq. (Bar No. 162805)
310 Golden Shore, Fourth Floor
P.O. Box 22711
Long Beach, CA 90801-5511
Tel. No.: (562) 436-3946
Fax No.: (562) 495-0564
TARG-0248

Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

FILED
2007 DEC 19 PM 2:46
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: ___

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467FMC (JTLx) **DECLARATION OF CINDY FLETCHER IN SUPPORT OF TARGET'S MOTION TO DISMISS OR TRANSFER VENUE** Complaint Filed: October 5, 2007 Trial Date: None

I, Cindy Fletcher, hereby declare:

1. I am the store team leader for Target Store #202, located at 5454 Balboa Avenue in San Diego, California. I am aware of the forklift accident involving Edgar Aquino that took place outside of my store on October 6, 2005, at approximately twelve noon.

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DOCKETED ON CM
DEC 21 2007
BY MG 009

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2. We called for an ambulance and Mr. Aquino was taken from my Target store to a local hospital in San Diego County.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 19 day of November, 2007, at San Diego, California.

Cindy Fletcher

Cindy Fletcher, Declarant

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE
Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On December 19, 2007, I served the following document(s) described as **DECLARATION OF CINDY FLETCHER IN SUPPORT OF TARGET'S MOTION TO DISMISS OR TRANSFER VENUE** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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Executed on December 19, 2007, at Long Beach, California.

[signature]
Leti Gutierrez

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

PRINDLE, DECKER & AMARO LLP
R. Derek Classen, Esq. (Bar No. 162805)
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Fax No.: (562) 495-0564
TARG-0248
rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

FILED
2007 DEC 19 PM 2:46
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY:

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467 FMC (JTLx) **MOTION FOR TRANSFER OF VENUE (*28 USC § 1404(a)*)** DATE: January 14, 2008 TIME: 10:00 a.m. DEPT.: 750 – Roybal Bldg.

Defendant TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION (hereinafter "Target"), hereby submits its Memorandum of Points and Authorities in support of its Motion to Transfer Venue of the above-entitled matter, from this Court to the United States District Court for the Southern District of California:

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#10

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION.

Plaintiff Edgar Aquino filed his Complaint for General Negligence and Premises Liability on or about October 5, 2007, in the Southeast District (Norwalk) of the Los Angeles County Superior Court. Following service of the Complaint upon Target, on or about November 15, 2007, Target removed the matter to Federal Court, based on diversity of citizenship. Based on Plaintiff's filing of the case in the Norwalk court, the matter was removed to the United States District Court for the Central District of California, and was assigned to this Courtroom.

Shortly thereafter, in preparation for filing its Answer, Target became aware that this case was erroneously filed in Los Angeles County, but should instead have been filed by Plaintiff in San Diego County, because the accident that injured Plaintiff occurred at a Target store located in the City of San Diego.

Upon obtaining this information, counsel for Target spoke with counsel for Plaintiff, whereupon Plaintiff's counsel acknowledged that the case was mistakenly filed in Norwalk, and that it should correctly have been filed in San Diego. Plaintiff's counsel does not object to a transfer of this matter to San Diego.

As discussed below, the interests of justice and the convenience of the witnesses, the parties and this Court dictate that this matter should be transferred to the District Court for the Southern District of California – the location to where this matter would have been removed had Plaintiff initially filed his Complaint in the San Diego County Superior Court.

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LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

II.

ALLEGATIONS OF THE COMPLAINT, AND THE FACTS OF THIS CASE.

The Complaint filed alleges that on October 6, 2005, Plaintiff was delivering "products" to a Target store "located at 8800#B Slauson Ave., #B, Pico Rivera, CA 90660" (Complaint, page 4, ¶GN-1; page 6, ¶ Prem.L-1) when he was "struck and pinned by the forklift" at said Target store (Complaint, page 4, ¶GN-2, 3; pps 6-7 5, ¶ Prem.L-1) and suffered injuries therefrom.

Based on the time deadlines for removing a case from State to Federal Court, counsel for Target was required to file its Notice of Removal based only the information contained in the Summons and Complaint. Based solely on the information contained in the Complaint, it appeared that Plaintiff filed this case in the correct court. Soon afterwards, however, it became apparent that something was amiss. First, while there is a Target store in Pico Rivera, it is at 8800 Whittier Boulevard, not 8800 Slauson Avenue. Next, while investigating this accident, no one from the Target Pico Rivera store had heard of this accident. Finally, after further investigation, Target learned that this accident actually occurred at its Target store located at 5454 Balboa Avenue in San Diego, California 92111. (See, accompanying declarations of Target counsel R. Derek Classen, and Target store team leader Cindy Fletcher.) In fact, Target had created an accident report of the incident in San Diego, and had obtained preliminary information concerning Plaintiff's emergency medical treatment, all of which confirmed the accident took place at Target's San Diego store.

Upon contacting Plaintiff's counsel, counsel acknowledged that the Complaint mistakenly used Plaintiff's home address as the address for the Target store. Plaintiff's counsel further acknowledged that the case properly should have been filed in San Diego County. Plaintiff's counsel is not happy about the matter being in Federal Court, but has no objection to its transfer to San Diego. Because this matter cannot be resolved by stipulation of the parties, this motion to transfer is necessary. Under 28 U.S.C. § 1404(a), this Court is empowered to transfer this matter to its more appropriate venue. Additionally, the facts herein demonstrate that good cause exists for the transfer of this matter to the Southern District of California.

III.

THE CONVENIENCE OF THE WITNESSES, PARTIES AND THE INTERESTS OF JUSTICE SHOW THAT THE MATTER BE TRANSFERRED TO THE SOUTHERN DISTRICT (SAN DIEGO).

Even though it was actually filed in the incorrect jurisdiction, because this matter has been removed from the Los Angeles County Superior Court, this matter is now properly venued in the Central District. As such, a transfer of this matter from this Court to the Southern District is not mandatory, and 28 U.S.C. § 1406(a) has no application. This Court does, however, have *discretion* under 28 U.S.C. § 1404(a) to transfer this matter, "[f]or the convenience of parties, witnesses and in the interest of justice . . . to any other district or division where it might have been brought." *28 U.S.C. § 1404(a).*

The Court's inherent discretion in this situation is interpreted broadly, in order to enable the Court to consider the particular facts of each case. *E&J Gallo Winery v. F&P SpA,* 899 F.Supp. 465, 466 (E.D. CA 1994).

A. The Matter Could Have Been Brought in the Southern District.

First, it must be shown that the proposed transferee court is one in which the action could have been commenced originally, meaning it would have had subject matter jurisdiction; defendants would have been subject to personal jurisdiction; and venue would have been proper. *Hoffman v. Blaski,* 363 U.S. 335, 343-344 (1960). Each is present in this instance: Because the accident took place in the City of San Diego, the matter could (and should) have been brought in either San Diego County Superior Court or the United States District Court for the Southern District of

California, and Target would have been subject to personal jurisdiction therein (notwithstanding the diversity of citizenship issue). Thus, transfer to the Southern District would be permissible under § 1404(a).

B. The Convenience of the Parties and Witnesses Support Transfer.

Additionally, the evidence in this case indicates there are many reasons why trial of this case would be more convenient to the parties and witnesses in this instance. While a plaintiff's choice of forum should be given great weight when deciding whether to grant a motion to change venue (*Securities Investor Protection Corp. v. Vigman*, 764 F.2d 1309, 1317 (9th Cir. 1985)), here it is apparent that Plaintiff mistakenly and unintentionally filed the matter in Los Angeles County because his counsel confused Plaintiff's home address with the location of the accident. Because Plaintiff's "choice of forum" was unintentional, this Court should give little, if any, weight to this factor.

Conversely, the convenience of the potential witnesses *will* be great. This is often the most important factor affecting the court's exercise of its discretion. *A.J. Industries, Inc. v. United States Dist. Ct.*, 503 F.2d 384, 389 (9th Cir. 1974). Here, while it is still too early in this case to know definitively who all the witnesses will be, this factor is nonetheless determinative.

First, it is apparent – and conceded by Plaintiff – that the accident happened in San Diego. Target's accident report and its further preliminary investigation have identified at least five Target employee witnesses, who each reside in San Diego County, who will likely be deposed and/or testify at trial. Additionally, Plaintiff's initial injuries were first diagnosed and treated in San Diego. Both the Complaint and the declaration of Target store team leader Ms. Fletcher indicate that Plaintiff was injured in the accident to such a degree that Plaintiff was taken by ambulance to a local hospital where he underwent emergency surgery. Target's preliminary investigation confirms that Plaintiff received substantial treatment for his injuries in

San Diego County. Thus, the ambulance medical team as well as the emergency room medical doctors and attendants will be located in San Diego County. It would undoubtedly be a great burden upon those professionals to be subject to subpoena power in Los Angeles when this matter can be transferred to San Diego.

Also, it goes without saying that the accident site itself is in San Diego, and the forklift which caused Plaintiff's injuries is still in San Diego. Any additional aspects of this case or potential witnesses to the accident are likely to come from the San Diego area. Accordingly, transfer of this matter to the Southern District will aid the convenience of third party witnesses in this matter.

C. The Interests of Justice.

Additionally, the interests of justice support the transfer of this matter to the Southern District. This a matter that, but for Plaintiff's counsel's inadvertent pleading error, would have been filed initially in San Diego, therefore it is logical and in the ordinary scope of judicial determination that this matter be transferred to its proper venue. To the extent it is applicable, the interests of the residents of San Diego County are more at issue in this matter, because this matter involves questions of safety involving their businesses. Finally, because it is more logical to have this matter proceed in San Diego, the interests of justice are promoted by permitting the matter to go forward in its more proper venue.

IV.

CONCLUSION.

Because this case was initially mistakenly filed in the wrong court, because the incident forming the subject matter of this case took place in San Diego County, and because many of the potential and likely witnesses and evidence in this case are located in San Diego County, this Court should exercise its discretion and transfer the matter to the Southern District of California, pursuant to 28 U.S.C. § 1404(a), where it would now be if the matter had been initially filed in its proper forum.

Respectfully submitted,

DATED: December 18, 2007

PRINDLE, DECKER & AMARO LLP

BY: ____________________
R. DEREK CLASSEN,
Attorneys for Defendant, TARGET STORES,
A Division of TARGET CORPORATION

LAW OFFICES OF
PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On December 19, 2007, I served the following document(s) described as **MOTION FOR TRANSFER OF VENUE (28 USC §1404(a)** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

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☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on December 19, 2007, at Long Beach, California.

Leti Gutierrez

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

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R. Derek Classen, Esq. (Bar No. 162805)
310 Golden Shore, Fourth Floor
P.O. Box 22711
Long Beach, CA 90801-5511
Tel. No.: (562) 436-3946
Fax No.: (562) 495-0564
TARG-0248

Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

FILED 2007 DEC 19 PM 2:46 CLERK U.S. DISTRICT COURT CENTRAL DIST. OF CALIF. LOS ANGELES BY: ___

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467FMC (JTLx) **DECLARATION OF R. DEREK CLASSEN IN SUPPORT OF TARGET'S MOTION TO DISMISS OR TRANSFER VENUE** Complaint Filed: October 5, 2007 Trial Date: None

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BY ___ 148

I, R. Derek Classen, hereby declare:

1. I am an attorney licensed to practice in California and in the United States District for the Central and Southern Districts of California, and am a partner of the law firm of Prindle, Decker & Amaro, LLP, attorneys of record for Defendant Target Stores ("Target"). The following facts are of my own knowledge, and if required, I could and would testify as follows:

2. Because Target is, for jurisdictional purposes, a corporate citizen of Minnesota, I routinely remove cases such as the present case naming Target to federal court where other jurisdictional requirements are met. At the time I was required to file for removal, all I had been given by my client was the Summons and Complaint. I assumed that the basic information in the Complaint regarding the location of the accident was correct; I had no reason to believe that such a basic fact would be so

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completely incorrect. My initial review of the Complaint – which listed the accident as having occurred in Pico Rivera – indicated that this case was correctly filed in the Norwalk courthouse of the Los Angeles County Superior Court. It was only later that it became apparent that Plaintiff's Complaint was inaccurate and that Plaintiff's case was actually filed in the wrong court, and in the wrong County.

3. As part of the meet and confer process needed to bring this motion before this Court, I discussed the situation with Plaintiff's counsel. I stated that my investigation showed that the accident did not occur in Pico Rivera, but rather occurred at a Target store in the City of San Diego. Plaintiff's counsel agreed that this was correct. Counsel further stated that the Pico Rivera address was Plaintiff's residence, and that the inclusion of this address and the subsequent filing of this case at the Norwalk courthouse based on this address was incorrect and was done accidently and inadvertently. Plaintiff's counsel indicated that he agreed that the matter should originally have been filed in San Diego County. While counsel was amenable to stipulating to transfer venue, I did not pursue this because my research on the issue indicated that the Court's decision to transfer the matter to another venue would have to be made by motion, and therefore a stipulation would be ineffectual.

4. I have obtained the accident report from Target as well as some of Plaintiff's medical records from his emergency room visit and emergency surgery. Target's accident report indicates that Plaintiff, who does not work for Target, was unloading pumpkins from his company's truck when he attempted to climb into the cab of a forklift from the bed of his truck, and accidently kicked some levers that caused the forklift to rise and begin to crush him. According to my initial review of this case, there are at least five target employees who are potential witnesses in this case. Because the accident took place in San Diego, and because the vast majority of the evidence and witnesses are located in San Diego, the Southern District is the more proper venue for this case. Additionally, I have recently obtained a portion of Plaintiff's medical records, which indicate that Plaintiff received extensive

emergency and hospital care in San Diego following the accident. Thus, there is further basis for transferring this case to the Southern District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 18th day of December, 2007, at Long Beach, California.

R. Derek Classen, Declarant

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On December 19, 2007, I served the following document(s) described as **DECLARATION OF R. DEREK CLASSEN IN SUPPORT OF TARGET'S MOTION TO DISMISS OR TRANSFER VENUE** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered to ______________________ for delivery to the above address(es).

☐ **BY FAX:** I caused the above-referenced document to be transmitted via facsimile from Fax No. (562) 495-0564 to Fax No. __________ directed to ___________. The facsimile machine I used complies with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2005(1), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).

☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on December 19, 2007, at Long Beach, California.

[signature]
Leti Gutierrez

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

PRINDLE, DECKER & AMARO LLP
R. Derek Classen, Esq. (Bar No. 162805)
310 Golden Shore, Fourth Floor
P.O. Box 22711
Long Beach, CA 90801-5511
Tel. No.: (562) 436-3946
Fax No.: (562) 495-0564
TARG-0248
rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

LODGED PROPOSED ORDER

FILED

2007 DEC 1 PM 2:46

CLERK U.S. DISTRICT COURT CENTRAL DIST. OF CALIF. LOS ANGELES

BY: ______

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467 FMC (JTLx) **NOTICE OF MOTION FOR TRANSFER OF VENUE (*28 USC § 1404(a)*)** DATE: January 14, 2008 TIME: 10:00 a.m. DEPT.: 750 – Roybal Bldg.

DOCKETED ON CM DEC 20 2007 BY ___ 148

PLEASE TAKE NOTICE that on January 14, 2008, at 10:00 a.m., or as soon thereafter as counsel may be heard, in Courtroom "750" of the United States District Court, located at 255 East Temple Street, Los Angeles, California 90012, Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION (hereinafter "Target"), will and hereby does, move this Court for an order transferring this matter to the United States District Court for the Southern District of California.

This motion is made upon the grounds that this transfer is permitted in the Court's discretion under 28 U.S.C. § 1404(a) and that such discretion is properly

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exercised based on the fact that the accident which forms the basis of Plaintiff's lawsuit occurred in the City of San Diego, that Plaintiff's Complaint was incorrectly and inadvertently filed in the wrong County prior to the removal of the case to Federal Court, and that the convenience of the parties and witnesses, and the interests of justice support the transfer of this matter to the United States District Court for the Southern District of California, which encompasses the City of San Diego.

This Motion is made following the meeting and conference between counsel for Defendant Target and counsel for Plaintiff pursuant to Local Rule 7-3, which took place on or about December 5, 2007.

This Motion is based on this Notice, the concurrently filed Memorandum of Points and Authorities in support of the Motion, the Declarations of R. Derek Classen and Cindy Fletcher, the Court's file, and any oral argument offered in support hereof.

Respectfully submitted,

DATED: December 18, 2007 PRINDLE, DECKER & AMARO LLP

BY: ______________________
R. DEREK CLASSEN,
Attorneys for Defendant, TARGET STORES,
A Division of TARGET CORPORATION

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On December 19, 2007, I served the following document(s) described as **NOTICE OF MOTION FOR TRANSFER OF VENUE (28 USC §1404(a)** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).

☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on December 19, 2007, at Long Beach, California.

Leti Gutierrez

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
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R. Derek Classen, Esq. (Bar No. 162805)
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rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

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2007 NOV 20 PM 2:34

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467 FMC (JTLx) **DEMAND FOR TRIAL BY JURY**

COMES NOW, Target Stores, a Division of Target Corporation ("Target"), erroneously served and sued herein as TARGET CORPORATION, hereby requests a Jury Trial in the above-referenced matter.

DATED: November 19, 2007

PRINDLE, DECKER & AMARO LLP

BY: [signature]
R. DEREK CLASSEN,
Attorneys for Defendant, TARGET STORES,
A Division of TARGET CORPORATION

DOCKETED ON CM
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RDC/TARGET/AQUINO/PLEADINGS/JuryDemand

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE
Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On November 20, 2007, I served the following document(s) described as **DEMAND FOR TRIAL BY JURY** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

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☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 20, 2007, at Long Beach, California.

Leti Gutierrez

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

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Tel. No.: (562) 436-3946
Fax No.: (562) 495-0564
TARG-0248
rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

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2007 NOV 20 PM 3:34
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY ______

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467 FMC (JTLx) **ANSWER TO COMPLAINT**

COMES NOW, Target Stores, a Division of Target Corporation ("Target"), erroneously served and sued herein as TARGET CORPORATION, who hereby answers Plaintiff's Complaint as follows:

Pursuant to FRCP Rule 8, Defendant Target denies the allegations pled by Plaintiff except as expressly admitted herein.

1. Based upon information and belief, Defendant admits that Plaintiff's name is Edgar Aquino and Defendant is Target Stores, a Division of Target Corporation.

2. As to Paragraph 5, Defendant admits that Target Stores is a Division of Target Corporation.

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RDC/TARGET/AQUINO/PLEADINGS/Answer

3. Defendant denies Paragraph 6 in its entirety based on lack of information and belief.

4. As to Paragraph 8, Defendant denies that any injury to Plaintiff occurred in the Los Angeles jurisdiction because the accident and alleged injuries occurred in San Diego County.

5. Defendant denies Paragraph 10 in its entirety.

6. Defendant denies Paragraph 11 in its entirety.

7. Defendant specifically and generally denies Plaintiff's prayer for damages in its entirety as set forth in Paragraph 14.

8. Answering Plaintiff's First Cause of Action for General Negligence, this responding Defendant admits that the accident took place on October 6, 2005, but denies that the accident took place at or near a Target Store located 8800 Slauson Avenue in Pico Rivera, California 90660. In fact, the alleged accident occurred at or near the Balboa Target Store located at 5454 Balboa Avenue in San Diego, California 92111. This responding party specifically and generally denies each and every other contention set forth in Plaintiff's allegations in its First Cause of Action.

9. Answering Plaintiff's Second Cause of Action for Premises Liability, this responding Defendant denies that the accident occurred on or about October 6, 2007 but rather on October 6, 2005. In addition, this responding party denies that the accident occurred at a Target Store located at the 8899 Slauson Avenue in Pico Rivera, California 90660. In fact, the accident occurred at Target's Balboa Store located at 5454 Balboa Avenue in San Diego, California 92111. In addition, this responding party denies specifically and generally each and every contention set forth in Plaintiff's allegations in his Second Cause of Action.

FIRST AFFIRMATIVE DEFENSE

(Comparative Negligence)

10. Alleges that Plaintiff's injuries, if any, were caused and contributed to by Plaintiff's own negligence.

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

SECOND AFFIRMATIVE DEFENSE

(Assumption of Risk)

11. Alleges that Plaintiff's injuries, if any, were caused and contributed to by Plaintiff's own assumption of risk.

THIRD AFFIRMATIVE DEFENSE

12. Alleges that the Complaint, and each cause of action thereof, fails to state facts sufficient to constitute a cause of action.

FOURTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

13. Alleges the Complaint, and each cause of action thereof, is barred by Section 340, subdivision 3 of the California Code of Civil Procedure.

FIFTH AFFIRMATIVE DEFENSE

(Fault of Others)

14. Alleges that other persons or entities, whether or not parties, each, were negligent and such negligence was a proximate cause of Plaintiff's injuries, if any, and should any judgment be awarded to Plaintiff, it must be apportioned among all such negligent persons or entities and offset against any judgment against Defendant.

SIXTH AFFIRMATIVE DEFENSE

(Mitigation of Damages)

15. That Plaintiff's injuries or damages, if any, should be diminished, reduced and/or barred for the reason that Plaintiff has failed to take any action whatsoever to mitigate her alleged injuries or damages.

SEVENTH AFFIRMATIVE DEFENSE

16. If any defect or defective condition is found in Defendant's property or equipment, such defect was merely a trivial or insignificant defect.

/ / /

/ / /

EIGHTH AFFIRMATIVE DEFENSE

17. Pursuant to Civil Code Section 1431.2, Defendant's liability for non-economic losses will be several only and not joint. Answering Defendant shall only be liable for the amount of non-economic damages allocated to answering Defendant's percentage of fault, if any.

NINTH AFFIRMATIVE DEFENSE

18. Alleges that Plaintiff is precluded from recovering from this answering Defendant by operation of law via collateral estoppel and/or res judicata.

TENTH AFFIRMATIVE DEFENSE

19. That Defendant was not negligent in the use, maintenance or management of its property, and that the allegedly dangerous condition Plaintiff alleges existed on its premises was an "open and obvious" condition for which no warning was required. Plaintiff's injuries, if any, were solely caused by her own failure to observe this "open and obvious" condition, and to take care of her own safety.

ELEVENTH AFFIRMATIVE DEFENSE

(Witt v. Jackson)

20. This answering Defendant alleges that Plaintiff's employer was concurrently negligent and thereby should be precluded from obtaining reimbursement of any benefits paid.

TWELFTH AFFIRMATIVE DEFENSE

21. This answering Defendant alleges that Plaintiff filed this matter in the improper venue. Plaintiff contends that venue is proper because the injury to the Plaintiff occurred at Target's Pico Rivera Store located in Pico Rivera, California, which is located in the County of Los Angeles. In fact, Defendant contends that the accident occurred at Target's Balboa Store located on Balboa Avenue in San Diego, California. As such, venue is improper in Los Angeles County.

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LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

WHEREFORE, Defendant asks judgment as follows:

1. That Plaintiff take nothing;
2. For costs of suit; and
3. For other proper relief.

DATED: November 19, 2007

PRINDLE, DECKER & AMARO LLP

BY: [signature]
R. DEREK CLASSEN,
Attorneys for Defendant, TARGET STORES, A Division of TARGET CORPORATION

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On November 20, 2007, I served the following document(s) described as **ANSWER TO COMPLAINT** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 20 2007, at Long Beach, California.

Leti Gutierrez

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

Edgar Aquino vs. Target Stores
Case No. CV07-07467 FMC (JTLx)

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

PRINDLE, DECKER & AMARO LLP
R. Derek Classen, Esq. (Bar No. 162805)
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Fax No.: (562) 495-0564
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rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

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2007 NOV 14 PM 2:43
CLERK U.S. DISTRICT COURT CENTRAL DIST. OF CALIF. LOS ANGELES
BY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. CV07-07467 FMC JTLx **DISCLOSURE STATEMENT OF DEFENDANT**

Now Comes TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION, the Defendant in the above-entitled cause of action, and files this its Rule 7.1(a) Disclosure Statement as follows:

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BY 181

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Defendant has a parent corporation, TARGET CORPORATION. No other publicly traded corporation owns 10% or more of its stock.

DATED: November 14, 2007 PRINDLE, DECKER & AMARO LLP

BY: R. DEREK CLASSEN,
Attorneys for Defendant, TARGET STORES,
A Division of TARGET CORPORATION

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE
Edgar Aquino vs. Target Stores
Case No.

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On November 14, 2007, I served the following document(s) described as **DISCLOSURE STATEMENT OF DEFENDANT** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

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☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 14, 2007, at Long Beach, California.

Leti Gutierrez

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

Edgar Aquino vs. Target Stores
Case No.

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

PRINDLE, DECKER & AMARO LLP
R. Derek Classen, Esq. (Bar No. 162805)
310 Golden Shore, Fourth Floor
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Tel. No.: (562) 436-3946
Fax No.: (562) 495-0564
TARG-0248
rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

FILED
2007 NOV 14 PM 2:45
CLERK U.S. DISTRICT COURT CENTRAL DIST. OF CALIF. LOS ANGELES
BY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

CV07-07467 FMC JTLx

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CASE NO. **CERTIFICATION AS TO INTERESTED PARTIES**

The undersigned, counsel of record for Defendant TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION, certifies that as of this time, the following party related to or to be disclosed by Defendant has a pecuniary interest in the outcome of this case:

1. Target Corporation.

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BY
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(2)

These representations are made to enable the Court to evaluate possible disqualification or recusal.

DATED: November 14, 2007

PRINDLE, DECKER & AMARO LLP

BY: [signature]
R. DEREK CLASSEN,
Attorneys for Defendant, TARGET STORES,
A Division of TARGET CORPORATION

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No.

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On November 14, 2007, I served the following document(s) described as **CERTIFICATION AS TO INTERESTED PARTIES** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered to ______________________ for delivery to the above address(es).

☐ **BY FAX:** I caused the above-referenced document to be transmitted via facsimile from Fax No. (562) 495-0564 to Fax No. __________ directed to ___________. The facsimile machine I used complies with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2005(1), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).

☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 14, 2007, at Long Beach, California.

Leti Gutierrez

Edgar Aquino vs. Target Stores
Case No.

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

PRINDLE, DECKER & AMARO LLP
R. Derek Classen, Esq. (Bar No. 162805)
310 Golden Shore, Fourth Floor
P.O. Box 22711
Long Beach, CA 90801-5511
Tel. No.: (562) 436-3946
Fax No.: (562) 495-0564
TARG-0248
rclassen@pdalaw.com
Attorneys for Defendant, TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION

FILED
2007 NOV 14 PM 2:26
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

EDGAR AQUINO, Plaintiff, v. TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive, Defendants.	CV07-07467 FMC(JTLx) CASE NO. **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1441(b) [DIVERSITY]**

N/S

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant TARGET STORES, a Division of TARGET CORPORATION, erroneously served and sued herein as TARGET CORPORATION, (hereinafter "TARGET") hereby removes to this Court the state court action described below.

1. On or about October 5, 2007, an action was commenced in the Superior Court of the State of California in and for the City and County of Los Angeles, entitled EDGAR AQUINO v. TARGET CORPORATION, et al., as case number VC049586. A copy of the Complaint is attached hereto as Exhibit "A."

DOCKETED ON CM
NOV 16 2007
BY 181

(1)

2. The first date upon which Defendant TARGET received a copy of said Complaint was October 16, 2007, when Defendant was served with a copy of the Complaint and a summons from the state court. A copy of the summons is attached hereto as Exhibit "B."

3. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b), in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs, as alleged by Plaintiff for his crush injuries from this forklift accident. His medical bills alone far total approximately $83,000.00.

4. Defendant is informed and believes that Plaintiff EDGAR AQUINO was, and still is, a citizen of the State of California. Defendant TARGET was, at the time of the filing of this action, and still is, a corporate citizen of the State of Minnesota, where it is both incorporated and has its principal place of business.

6. TARGET is the only named Defendant in this action, and is the only Defendant that has been served summons and complaint in this action.

DATED: November 14, 2007 PRINDLE, DECKER & AMARO LLP

BY: [signature]
R. DEREK CLASSEN,
Attorneys for Defendant, TARGET STORES,
A Division of TARGET CORPORATION

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

EXHIBIT "A"

PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*

RANCE D. WELCH, ESQ.
PRUSSAK, WELCH & AVILA
175 SOUTH C STREET
2ND FLOOR
TUSTIN, CALIFORNIA 92780
TELEPHONE NO: (714) 665-0799 FAX NO. *(Optional):* (714) 665-0797
E-MAIL ADDRESS *(Optional):* Ioneall@aol.com
ATTORNEY FOR *(Name):* EDGAR AQUINO

FOR COURT USE ONLY

ORIGINAL FILED
OCT 5 2007
NORWALK SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 12720 NORWALK BLVD.
MAILING ADDRESS: 12720 NORWALK BLVD.
CITY AND ZIP CODE: NORWALK, CA 90650-3188
BRANCH NAME: SOUTHEAST DIST - CIVIL UNLTD

PLAINTIFF: EDGAR AQUINO

DEFENDANT: TARGET CORPORATION, DOE DEFENDANT, and

[X] DOES 1 TO 20, Inclusive

COMPLAINT—Personal Injury, Property Damage, Wrongful Death

[ ] **AMENDED** ***(Number):***

Type ***(check all that apply):***

[ ] **MOTOR VEHICLE**
[X] **OTHER** ***(specify):***
[ ] **Property Damage**
[ ] **Wrongful Death**
[X] **Personal Injury**
[X] **Other Damages** ***(specify):*** GENERAL AND SPECIAL

Jurisdiction ***(check all that apply):***

[ ] **ACTION IS A LIMITED CIVIL CASE**
Amount demanded [ ] **does not exceed $10,000**
[ ] **exceeds $10,000, but does not exceed $25,000**
[X] **ACTION IS AN UNLIMITED CIVIL CASE (exceeds $25,000)**
[ ] **ACTION IS RECLASSIFIED by this amended complaint**
[ ] **from limited to unlimited**
[ ] **from unlimited to limited**

CASE NUMBER: VC049586

1. **Plaintiff** *(name or names):* EDGAR AQUINO

alleges causes of action against **defendant** *(name or names):* TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, Inclusive

2. This pleading, including attachments and exhibits, consists of the following number of pages:
3. Each plaintiff named above is a competent adult
   a. [ ] **except plaintiff** *(name):*
      (1) [ ] a corporation qualified to do business in California
      (2) [ ] an unincorporated entity *(describe):*
      (3) [ ] a public entity *(describe):*
      (4) [ ] a minor [ ] an adult
         (a) [ ] for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
         (b) [ ] other *(specify):*
      (5) [ ] other *(specify):*

   b. [ ] **except plaintiff** *(name):*
      (1) [ ] a corporation qualified to do business in California
      (2) [ ] an unincorporated entity *(describe):*
      (3) [ ] a public entity *(describe):*
      (4) [ ] a minor [ ] an adult
         (a) [ ] for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
         (b) [ ] other *(specify):*
      (5) [ ] other *(specify):*

[ ] Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

PLD-PI-001

SHORT TITLE: AQUINO v. TARGET, et al.	CASE NUMBER:

4. [ ] Plaintiff *(name)*:
is doing business under the fictitious name *(specify)*:

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person
a. [X] **except** defendant *(name)*: TARGET CORPORATION
(1) [ ] a business organization, form unknown
(2) [X] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

b. [ ] **except** defendant *(name)*:
(1) [ ] a business organization, form unknown
(2) [ ] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

c. [ ] **except** defendant *(name)*:
(1) [ ] a business organization, form unknown
(2) [ ] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

d. [ ] **except** defendant *(name)*:
(1) [ ] a business organization, form unknown
(2) [ ] a corporation
(3) [ ] an unincorporated entity *(describe)*:
(4) [ ] a public entity *(describe)*:
(5) [ ] other *(specify)*:

[ ] Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.
a. [X] Doe defendants *(specify Doe numbers)*: 1 to 20, Inclusive were the agents or employees of other named defendants and acted within the scope of that agency or employment.
b. [X] Doe defendants *(specify Doe numbers)*: 1 to 20, Inclusive are persons whose capacities are unknown to plaintiff.

7. [ ] Defendants who are joined under Code of Civil Procedure section 382 are *(names)*:

8. This court is the proper court because
a. [ ] at least one defendant now resides in its jurisdictional area.
b. [ ] the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
c. [X] injury to person or damage to personal property occurred in its jurisdictional area.
d. [ ] other *(specify)*:

9. [ ] Plaintiff is required to comply with a claims statute, and
a. [ ] has complied with applicable claims statutes, or
b. [ ] is excused from complying because *(specify)*:

SHORT TITLE: AQUINO v. TARGET, et al.	CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each *(each complaint must have one or more causes of action attached):*
    - a. [ ] Motor Vehicle
    - b. [x] General Negligence
    - c. [ ] Intentional Tort
    - d. [ ] Products Liability
    - e. [x] Premises Liability
    - f. [ ] Other *(specify):*

11. Plaintiff has suffered
    - a. [x] wage loss
    - b. [ ] loss of use of property
    - c. [x] hospital and medical expenses
    - d. [x] general damage
    - e. [ ] property damage
    - f. [x] loss of earning capacity
    - g. [x] other damage *(specify):*

12. [ ] The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
    - a. [ ] listed in Attachment 12.
    - b. [ ] as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
    - a. (1) [x] compensatory damages
    - (2) [ ] punitive damages
    - The amount of damages is *(in cases for personal injury or wrongful death, you must check (1)):*
    - (1) [x] according to proof
    - (2) [ ] in the amount of: $

15. [ ] The paragraphs of this complaint alleged on information and belief are as follows *(specify paragraph numbers):*

Date: OCTOBER 1, 2007

RANCE D. WELCH
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PLD-PI-001(2)

SHORT TITLE: AQUINO v. TARGET, et al.

CASE NUMBER:

FIRST (number) **CAUSE OF ACTION—General Negligence**

Page Four

ATTACHMENT TO [x] Complaint [ ] Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff *(name)*: EDGAR AQUINO

alleges that defendant *(name)*: TARGET CORPORATION, and DOES 1 to 20, Inclusive

[x] Does 1 to 20, Inclusive

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on *(date)*: or about October 6, 2005

at *(place)*: 8800 Slauson Ave., #B, Pico Rivera, CA 90660

(description of reasons for liability):

1. At or about the above-mentioned time and place, defendants TARGET CORPORATION and DOES 1 to 10, Inclusive, and each of them, owned and operated a store known as TARGET, located at 8800#B Slauson Ave., #B, Pico Rivera, CA 90660. Defendants, and each of them, invited plaintiff to enter the premises to deliver products to Target.

2. on or about October 6, 2005, at approximately 1:00 p.m., plaintiff was delivering such product when, all of a sudden, without any warning, DOE defendant, an employee of TARGET, and DOES 11 to 20, and each of them, moved a forklift on TARGET's property, causing plaintiff to be severely injured when struck and pinned by the forklift.

3. Defendants, and each of them, as owners and operators and employees of TARGET, negligently:

a) Failed to maintain the premises in a reasonably safe condition;

b) Allowed the forklift to come into contact with and strike and pin plaintiff, when defendants, and each of them, knew, or in the exercise of reasonable care should have known, that the forklift created an unreasonable risk of harm to business invitees of TARGET; such as plaintiff EDGAR AQUINO.

c) Failed to warn plaintiff of an unsafe and dangerous condition the TARGET premises; and

d) Failed to otherwise exercise due care with respect to the matters alleged in the Complaint herein.

4. As a direct and proximate result of the negligence of defendants, and each of them, as set forth above, plaintiff EDGAR AQUINC was struck and pinned by defendants' forklift on the TARGET premises.

Legal Solutions Plus

SHORT TITLE: AQUINO v. TARGET, et al. | CASE NUMBER:

5. As a further direct and proximtae result of the negligence of the defendants, and each of them, as set forth above, plaintiff sustained serious injuries, including two ruptured stomach arteries, medical expenses, lost wages, pain and suffering and other injuries, as set forth in paragraph 11 of the Complaint herein.

ATTACHMENT TO GN-1

(Required for verified pleading) The items on this page stated on information and belief *(specify item numbers, not line numbers)*:

This page may be used with any Judicial Council form or any other paper filed with this court.

Form Approved by the Judicial Council of California MC-020 [New January 1, 1987] Optional Form

ADDITIONAL PAGE
Attach to Judicial Council Form or Other Court Paper

Legal Solutions Plus

CRC 201, 501

PLD-PI-001(4)

SHORT TITLE: AQUINO v. TARGET, et al.	CASE NUMBER:

SECOND (number) **CAUSE OF ACTION—Premises Liability** Page Six

ATTACHMENT TO [x] Complaint [ ] Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff *(name)*: EDGAR AQUINO
alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.
On *(date)*: or about 10-6-07 plaintiff was injured on the following premises in the following fashion *(description of premises and circumstances of injury)*:

1. At or about the above-mentioned time and place, defendants TARGET CORPORATION and DOES 1 to 10, Inclusive, and each of them, owned, operated a store known as TARGET, located at 8800#B Slauson Ave., #B, Pico Rivera, CA 90660. Defendants, and each of them, invited plaintiff to enter the premises to deliver products to TARGET.

2. On or about October 6, 2005, at approximately 1:00 p.m., plaintiff was delivering such product when, all of a sudden, without any warning, DOE defendant, an employee of TARGET, and DOES 11 to 20, Inclusive, and each of them, moved a forklift on TARGET's property, causing plaintiff to be severely injured when struck and pinned by the

Prem.L-2. [ ] **Count One--Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were *(names)*: TARGET CORPORATION, and

[x] Does 1 to 10

Prem.L-3. [ ] **Count Two--Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were *(names)*:

[ ] Does ______ to ______

Plaintiff, a recreational user, was [ ] an invited guest [ ] a paying guest.

Prem.L-4. [ ] **Count Three--Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were *(names)*:

[ ] Does ______ to ______

a. [ ] The defendant public entity had [ ] actual [ ] constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.

b. [ ] The condition was created by employees of the defendant public entity.

Prem.L-5. a. [x] **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were *(names)*: TARGET CORPORATION, DOE DEFENDANT, and

[x] Does 1 to 20,

b. [x] The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are [x] described in attachment Prem.L-5.b [ ] as follows *(names)*:

SHORT TITLE: AQUINO v. TARGET, et al. | CASE NUMBER:

forklift.3. Defendants, and each of them, as owners and employees of TARGET, negligently:

a) Failed to maintain the premises in a reasonably safe condition;

b) Allowed the forklift to come into contact with and strike and pin plaintiff, when defendants, and each of them, knew, or in the exercise of reasonable care should have known, that the forklift created an unreasonable risk of harm to business invitees of TARGET, such as plaintiff EDGAR AQUINO;

c) Failed to warn plaintiff of an unsafe and dangerous condition on the the TARGET premises; and

d) Failed to otherwise exercise due care with respect to the matters alleged in the Complaint herein.

4. As a direct and proximate result of the negligence of defendants, and each of them, as set forth above, plaintiff EDGAR AQUINO was struck and pinned by defendants' forklift on the TARGET premises.

5. As a further direct and proximate result of the negligence of the defendants, and each of them, as set forth above, plaintiff sustained serious injuries, including two ruptured stomach arteries, medical expenses, lost wages, pain and suffering and other injuries, as set forth in paragraph 11 of the Complaint herein.

(Required for verified pleading) The items on this page stated on information and belief *(specify item numbers, not line numbers)*:

This page may be used with any Judicial Council form or any other paper filed with this court.

EXHIBIT "B"

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

ORIGINAL FILED
OCT 5 2007
NORWALK SUPERIOR COURT

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
TARGET CORPORATION, DOE DEFENDANT, and DOES 1 to 20, INCLUSIVE

10/16/07
11:55

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
EDGAR AQUINO

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
LOS ANGELES COUNTY SUPERIOR COURT, STATE OF CA
12720 NORWALK BLVD.
12720 NORWALK BLVD.
NORWALK, CA 90650-3188
SOUTHEAST DIST - CIVIL UNLTD

CASE NUMBER: *(Número del Caso):* VC049586

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
RANCE D. WELCH, ESQ. (714) 665-0799 (714) 665-0797
PRUSSAK, WELCH & AVILA
175 SOUTH C STREET
TUSTIN, CALIFORNIA 92780

DATE: *(Fecha)* OCT - 5 2007 JOHN A. CLARKE Clerk, by *(Secretario)* P. Enciso, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010)).*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify):*
3. ☑ on behalf of *(specify):* TARGET CORPORATION

under: ☑ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify):*

4. ☒ by personal delivery on *(date):* 10/16/07

Page 1 of 1

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. January 1, 2004]

SUMMONS

Legal Solutions Plus

Code of Civil Procedure §§ 412.20, 465

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP

PROOF OF SERVICE

Edgar Aquino vs. Target Stores
Case No.

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and am not a party to the within action; my business address is 310 Golden Shore, 4th Floor, Long Beach, California 90802.

On November 14, 2007, I served the following document(s) described as **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1441(b) [DIVERSITY]** on all interested parties to this action, as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Prindle, Decker & Amaro's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered to ____________________ for delivery to the above address(es).

☐ **BY FAX:** I caused the above-referenced document to be transmitted via facsimile from Fax No. (562) 495-0564 to Fax No. __________ directed to __________. The facsimile machine I used complies with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2005(1), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).

☒ [State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 14, 2007, at Long Beach, California.

Leti Gutierrez

Edgar Aquino vs. Target Stores
Case No.

SERVICE LIST

Attorneys for Plaintiff

Rance D. Welch, Esq.
PRUSSAK, WELCH & AVILA
175 South C Street, 2nd Floor
Tustin, California 92780

Telephone: 714-665-0799
Facsimile: 714-665-0797

LAW OFFICES OF PRINDLE, DECKER & AMARO LLP